Critical Analysis Of Legal And Regulatory Framework Of PPP Projects In India

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Abstract

This paper refers to the Public-Private partnership projects in India & their legal, regulatory framework. Public-Private partnership is an approach adopted by the Indian government to intensify the economic value of infrastructure outputs and it encompasses a broad spectrum of public sector infrastructure. The study aims at reviewing the existing structure of the legal and regulatory framework of PPP & the critical analysis of it. The paper also takes note of the role of the current Government in enhancing PPP projects in India. The paper studies key sectors in Public-Private Partnership Agreement in India & Principles for conducting the implementation of Public-Private Partnership. The paper gives some recommendations on how the PPP policy of India should look like. It also takes into account the PPP framework provisions of other countries such as Japan, Canada, and England.

Keywords

PPP, Public Sector, Private sector, Economic growth, Infrastructure, PPP models, Legal framework

Introduction

A Public-Private partnership is a collaboration between the government or statutory entity and a private entity. This contractual agreement is done to enhance the economy and economic infrastructures such as airports, highways, railways, etc by the private sector as earlier it is controlled by the public sector. The key feature of PPP is the transfer of provision of services from the government to the private sector along with the deliverance of high-quality and cost-effective services to consumers as well as the government.

Reforms of 1990 under the Narasimha Rao Government aimed at faster & better economic growth. This initiated the process of liberalization in India and as a result, the role of government even transformed from provider to facilitator. PPP was initially in the form of privatization but it had many obstacles as large sunk costs associated with providing much economic infrastructure and its tendency to undervalue social infrastructure. There is no exact date or year which could be defined as the beginning of the Public-Private Partnership but it is even said that PPP began with the private sterling investments in Indian railroads in the latter half of the 1800s. Tracing back to the 1900s, Private makers and merchants developed a power sector in Kolkata under Calcutta Electric Supply Corporation. Even in Mumbai, Tata played a prominent role as he started Tata Hydroelectric Power Supply Company in 1911. After liberalization, the central government decided to allow private participation in the power sector. This opened the doors for independent power producers. The National Highways Act of 1956 was altered in 1995 to empower private entities' support. PPP was initiated mainly as a means of obtaining private sector capital and management expertise for economic and infrastructural advancement in India. Financing a project through PPP may allow a project to get completed in less time or make it a possibility in the first place as private sector technology and innovation get combined with the public sector which provides the incentives for the project to be completed within time and budget. The investment by the Private entity is undertaken for a specific period. A unique and innovative method to involve the private sector in nation-building activity through joint enterprises without spreading the limited available resources too thin is characteristic of the Public-Private Partnership. This method has emerged as one of the latest and most successful instruments of public finance. The PPP model is increasingly adopted by both developed and developing countries in recent years.

Meaning of Public-Private Partnership

The definition given by the Department of Economic AffairsAffairs under Government of India states that a "Public Private Partnership is a partnership between a public sector entity (sponsoring authority) and a private sector entity (a legal entity in which 51% or more of equity is with the private partner/s) for the creation and/or management of infrastructure for the public purpose for a specific period (concession period) on commercial terms and in which the private partner has been procured through a transparent and open procurement system." [1]

The main objectives of PPP in India includes -

1. Enabling more investment in infrastructure by accessing private Finance
2. A greater focus on the quality of service to the end user & improving accountability in providing infrastructure & public services
3. Encouragement to a whole-life-cost approach to infrastructure
4. Enhancing growth and development in the country

When the agreement is done in between the government & Private entity, the allocation of resources, risks, etc is always predetermined. This becomes a win-win agreement for both as the government needs investment in its projects and the private entity requires profits for the same. The Indian Economy in the past one and half decades has shown prodigious growth in Public-Private partnerships in all sectors of the economy. The central government of India in its Draft of National Public-Private Policy (2011) has given more emphasis on the creation of a broader framework for sustainable and inclusive growth of the PPPs.

[1] Srivastava, Shiksha. "India and Public Private Partnerships: Need for Reforms." *IJPIEL*, 17 June 2022, https://ijpiel.com/index.php/2022/06/17/india-and-public-private-partnerships-need-for-reforms/. Accessed 21 May 2023.

A Public-Private Partnership appraisal committee has been set up by the Indian Government to approve such projects and for transparent bidding competition among private entities. This committee is composed of the Department of economic affairs, Planning Commission, Department of Expenditure, department of legal affairs, and Secretary of the Department which is sponsoring the project. Every public-private partnership requires clearance from the appraisal committee which makes sure that the project is commercially well-built. It safeguards the interest of both the users and the public and the commercial liabilities of the government are also covered by it. This committee encourages structured contractual documents that stick to the norms such as contingent liabilities providing Quality Services, allocation of risks, etc.

The Union Budget of the year 2015-16 set up the committee under the chairmanship of Dr. Vijay Kelkar on "Revisiting and Revitalising the Public Private Partnership Model of Infrastructure Development." The committee gave many recommendations which are as follows -

1. There needs to be better identification and allocation of risk between stakeholders
2. The contracts between the public sector and private sector need to focus more on Service Delivery instead of Fiscal benefits
3. There should be an improvement in fiscal reporting practices and careful monitoring of performance projects which have not achieved a prescribed percentage of progress on the grounds that they should be scrapped. Once the issues get resolved then only Re-Bid them, otherwise complete them through public funds.
4. There is a need to develop umbrella guidelines for stressed projects that provide an overall Framework for the development and functioning of the sector-specific frameworks
5. An unsolicited proposal is to be discouraged to avoid information asymmetries and lack of transparency
6. An Institute of Excellence in PPP should be set up to inter alia guide the sector, provide policy input and timely advice, and undertake sustainable capacity building
7. To have an independent tariff, regular encouragement should be given to the use of PPPs in the sectors like Railways, urban, etc.

The public-private partnership process involves four stages including identification, development, procurement, contract management, and monitoring stage.

Models of Public-Private Partnership (PPP)

There are several models of Public-Private partnership based on the degree of investment, technical collaboration, duration, risk allocation, etc. Many variants of PPP models are implemented across different projects.

1. <u>Build-Operate-Transfer Model (BOT)</u>

Under this model, the government contracts with a private company to design, build and facilitate. The private entity is entitled to collect the revenue and maintain it. After the contractual period, the private entity transfers the facility back to the government, and the government then maintains and operates the facility by itself. For example, the National Highways are an example of the BOT Model of Public-Private Partnership.[2]

2. Build Own Operate Model (BOO)
   Under this model, the private sector partner finances, builds, owns, and operates the infrastructure component in perpetuity.
3. Build Own Operate Transfer Model (BOOT)
   Under this model, the project is transferred to the government or the private operator after the negotiated time. This model is used for the development of highways and ports.
4. Build Own Lease Transfer (BOLT) Model
   Under this model, the government gives concessions to private entities to build a facility, own the facility, and lease the facility to the public sector. At the end of the leaf period, there is the transfer of ownership of the facility to the government.
5. Design-Build Finance Operate Model (DBFO)
   In this model, for a long-term lease, a private entity is responsible for the design, construction, finance, and operation of the facility. Once the period is over the facility is retransferred to the government.
6. Lease Develop Operate Model (LDO)
   This type of model is mostly followed in the development of airport facilities. In this model, either the government or public sector entity retains the ownership of newly created infrastructure facilities and receives payments in terms of A lease agreement with the private promoter.[3]

Role of Private Sector Partners in PPP Projects

The role of private sector partners in PPP projects is a kind of Trustee and it must be accepted that private entrepreneurs come into the PPP agreements mainly with the profit motive and with a view of pursuing their business interests. This makes them assume the risk linked with the PPP projects. These agreements involve a substantial amount of public interest which both the parties - The

[2] Garg, Rachit. “All you need to know about Public-Private Partnership in India.” *iPleaders*, 7 April 2022, https://blog.ipleaders.in/all-you-need-to-know-about-public-private-partnership-in-india/#Key_sections_of_the_Public-Private_Partnership_Agreement_in_India. Accessed 21 May 2023.
[3] “PPP Investment Model.” *Drishti IAS*, 1 May 2019, https://www.drishtiias.com/to-the-points/paper3/ppp-investment-model. Accessed 21 May 2023.

government and the private entity are bound to safeguard and the public sector partner has the responsibility to ensure it. This does not mean that they are competing between them but in the process of national development, both the parties have to work together as partners and colleagues.In auditing the PPP projects, public auditors must appreciate the respective roles of each partner and focus in the audit on the achievement of the results, and compliance with the established rules and procedures at all stages of the project.

The private sector has to be innovative in the approach along with bringing the required finances and suitable Technology. They must have excellent project management and O and M capability and they must be able to demonstrate their commitment to the partnership. The public auditor should be mindful of the fact that private sector partners will also equally gain from the improvements and innovations brought about by it.

To avoid disputes between the public and private participants there should be a proper Framework of PPP based on shared risks and rewards.This is best achieved by establishing clear and transparent norms before the establishment of the PPP and by entering into unambiguous and specific contract relationships. There should be built into the contracts an efficient dispute resolution mechanism for resolving disputes which may arise, speedily and without disruption to the service provided.

Andhra Pradesh Infrastructure Development Enabling Act 2001

The Andhra Pradesh Infrastructure Development Enabling Act of 2001 was introduced by the state government of Andhra Pradesh to enhance the development of infrastructure projects in the state and enable private investment. The main objective of the act is to facilitate infrastructural development in the state in various sectors such as roads, highways, airports, energy, etc. The Infrastructure Authority is established, and headquartered in Hyderabad which will prioritize projects based on demand and supply gaps, inter-linkages, and any other relevant parameters and create a project shelf. The Authority shall consist of a Chairman, Vice Chairperson 1, and such other members not exceeding 15 in the aggregate including ex-officio members. The act has established mechanisms for the identification, selection, and implementation of the projects in the state. The State Government has established a board called the “Conciliation Board” to assist the Government Agency, or Local Authority and any Developer independently and impartially to reach an amicable settlement of their disputes arising under the Act or the Concession Agreement. It may conduct the conciliation proceedings in such a manner as it may consider appropriate, taking into account the circumstances of the case and the wishes of the parties that may be expressed for reaching a speedy settlement of the dispute.

The act includes provisions for revenue generation from infrastructure projects to ensure the financial sustainability of the PPP projects and for the recovery of investments made by private entities. The Single window clearance mechanism of the act provides all clearances required for starting and operating an industry or project within 21 working days and to improve the ease of doing business in the State of Andhra Pradesh. This mechanism has helped in reducing administrative delays and simplified the approval process of any infrastructural project. The act has established a legal framework to attract investment and ensure accountability in the projects. It has laid down the social and environmental safeguards but what I feel is that these considerations must be strengthened by sticking adherently to sustainability standards and implementing more robust safeguards. To ensure the effectiveness of the act as it was made in 2001, it is necessary to review the act for its relevance in the present time.

The Maharashtra Infrastructure Development Enabling Authority Act, 2018

This act is established by the state of Maharashtra to regulate the process of submission and evaluation of unsolicited proposals, to promote and facilitate infrastructure projects in the State of Maharashtra including through Public Private Partnerships and matters connected therewith or incidental thereto. It came into force on 23rd February 2018. The act establishes Government Authority which is a corporate body consisting of a Chief Secretary, and Principal Secretary with the power to acquire, hold and dispose of property - both moveable and immovable. The primary functions of the authority are -

1. To receive all proposals and certify whether the project qualifies to be an infrastructure project by ensuring that the project follows the guidelines and provisions of the Maharashtra Infrastructure Projects Policy.
2. To promote the competitive bidding of the infrastructure projects
3. To select project entrepreneurs for the implementation of infrastructure projects by an independent and impartial government authority, government agency, local authority, or state government
4. To recommend a time limit for the approval of infrastructure projects and to periodically review their status

The Authority even has the power to reject the proposal from a private entity if it doesn't fulfill the eligibility criteria mentioned in the act. The act could include provisions for training programs for the included parties, knowledge-sharing platforms, and public outreach campaigns to promote and encourage the understanding of infrastructure projects and their impact on communities. Some of the prominent examples of PPP projects in Maharashtra are Mumbai Pune express highway which is an excellent project which connected six lane Express Highway from Mumbai to Pune. The cost of constructing the Mumbai-Pune Expressway is Rs. 16.3 billion. Mumbai metro rail projects, Dr.Babasaheb Ambedkar International Airport, and smart cities mission are carried out in integration of Government and private entities. There is a lot of delay in completing PPP projects but with the people's cooperation, ensuring no corruption, and increased accountability, the quality of projects can be improved.

Need for Public-Private Partnerships

The 7th schedule of the Indian Constitution has divided the legislative powers between the central government and the state governments. The Union list includes the subjects over which only the central government has the power to make laws. The infrastructure sector including highways and railways comes under the Union list of the 7th schedule. The Indian government from the very beginning has increased and promoted public-private partnerships but still, many problems come across from issues of land acquisition, obtaining regulatory approvals, errors in balance sheets, etc. The Indian government has confidence that they will achieve success but there are still some problems that need to be addressed by the government.

1. When both parties agree, the norms and rules are laid down in different clauses as per the needs and requirements of the parties but sometimes, unpredictable things happen that might not have been expected by the parties. Such as in some cases, the contract might get terminated before the completion of the period due to changes in government policies or failure to perform the obligations by any of the parties.
2. According to the World Bank, the government is responsible for the utility of services provided and the private sector does as much as it is paid for and nothing more than that. The private sector should also retain a certain amount of control over the services provided as certain risk is included in it. There needs to be an authority on pricing by the private sector.
3. Land which is required for a project is owned both by the central and the state governments. Though the land is awarded by the government or any statutory entity of the government, the state government retains jurisdiction over the same. The main concern that arises is the process of obtaining approvals, clearances, land acquisition financial closures, etc. In some cases, it takes almost 9-15 months from the date of awarding the project to the date of beginning the course of work for the concerned project. It is the responsibility of the government to hand over the land and right of way to the dealer, failing which would lead to increased costs and undue delays. Sometimes, after the handing over of land by the government, the state governments do not make efforts to resolve the land disputes, which also causes delays in the process of obtaining approvals. Projects worth

Rs 1000 crores or upwards require the sanction of the Union Cabinet, which also causes hurdles in the course of work.[4]

Challenges

There are a lot of challenges that private and public sectors have to face due to the inadequate enabling framework to facilitate private investment, poor project preparation, and weak financial capacity of project performance and political position to private sector participation. This leads to the failure of most of the projects in India. These regulatory issues have rules as sectors are presently completely under the domain of government control through state and district-level authorities. Many times the officials are not adequately trained or willing to cooperate with the executives of the private entities. Inadequate preparatory work about the Framework for PPP projects, identification of project, selection of private participants, preparation of strategic plan and project reports, drafting of contracts, and other associated activities will only need to excessive transaction costs, years of delay in project implementation, inadequate quality and large contingent liability to the government.[5]

Other challenges that parties involved have to face such as environmental damage, contractor default, insufficient demand and market risk arising from it, technology risk, labor risk, changes in interest rates, changes in the exchange rate, increasing taxes, etc.

Advantages & disadvantages of PPP projects

Public-private partnerships are a win-win agreement for the public sector and Private entities. PPP projects provide transparency and efficiency as the skills and expertise of the private entity are involved. It helps to reduce the overall cost of the government as not only the government is implementing the services but its private partner is also executing the services provided. Both parties have to do the best that they can. The project gets completed within the budget expected by the other party and provides timely completion of projects along with standard performance. There is shared risks & transfer of risks by the government to the private sector. Due to PPP projects, the government can reduce its government budgets & budget deficits.

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[4] Garg, Rachit. “All you need to know about Public-Private Partnership in India.” *iPleaders*, 7 April 2022, https://blog.ipleaders.in/all-you-need-to-know-about-public-private-partnership-in-india/#Key_sections_of_the_Public-Private_Partnership_Agreement_in_India.

[5] Srivastava, Shiksha. “India and Public Private Partnerships: Need for Reforms.” *IJPIEL*, 17 June 2022, https://ijpiel.com/index.php/2022/06/17/india-and-public-private-partnerships-need-for-reforms/.

The disadvantage of PPP projects is that the private sector invests huge amounts of money in the projects and bears the risk and expects to get compensated by the government when any unpleasant situation happens. This increases the cost of the government. The prophets from the projects vary in terms of risks, competitiveness, complexity, and scope. Many times, the parties involved don't obtain the regulatory approvals. Opposition parties claim this is capitalism. The Government of India does not have a good track record of performance in all sectors of public-private partnership including infrastructure, roads, transport, housing, etc.

What Should India's PPP Policy Be Like?

It is argued by the opposition parties, PPP projects are a mere "language game" by the Government and are trying to promote privatization. There is a need to reform the PPP framework.

It is suggested that there should be strong and creditworthy counterparties, and international arbitration (especially for projects with international investors) clauses included in all PPP project contracts. The government also needs to expedite the passage of the Prevention of Corruption Act to empower bureaucrats to decide commercial importance without the fear of being penalized. Transparency between the government and the private sector needs to be maintained. For this purpose, regulations have been included in the framework but to keep a check on the working and implementation of the project, an autonomous independent body needs to be established. This body will be responsible for monitoring and evaluating the PPP projects throughout their life cycle. This will ensure compliance with contractual obligations, performance standards, and timely delivery of outcomes. This autonomous body should consist of 2 industry experts and 2 public policy advisors. The suggestions or opinions of the local community can be taken from the meeting conducted trimonthly within the concerned town/area where they will discuss specifically the ongoing PPP projects. These meetings will be attended by the industry experts and policy advisors appointed. The body will look after the overall working of the project and based on the suggestions of the local community, will give recommendations to the concerned government department and private entities involved in PPP projects.

The main work of this body would be to look after the performance and timely deliverance of the project. This will ensure two things - First, it will increase the participation of people in the government procedure which will further help in strengthening democratic processes. Second, a regular check on the PPP project deliverance will make the involved parties accountable. To avoid the monopoly of a private entity, there should be competition in the bidding process to attract other private entities as well. This can be achieved through an open and fair procurement process with standardized bidding documents. The stakeholders involved in the project must have a clear understanding of every single detail of the project. Enhancing the capacity of government agencies involved in PPP implementation is the most important thing to achieve desired project outcomes. Online portals should be maintained for exploring innovative financing models like blended finance, infrastructure funds, etc. Industry conferences or workshops should be organized where all stakeholders will join hands and share knowledge, innovative ideas, lessons learned, and best practice dissemination. This will surely help to improve the involved parties' understanding of PPP concepts & project oversight. To address concerns of social and environmental sustainability, one way can be to keep open forums and encourage public consultations. This grievance redressal mechanism must be added to the current PPP framework which will surely help for better implementation of PPP projects. A more Customer-Centric approach should be developed rather than a profit approach.

There is a need to address the risk allocation and sharing mechanism. The allocation of risks should be based on the project characteristics. It is important to assess the specific factors which impact the project's success or failure while determining risk sharing. Based on the project complexity, if a project is highly complex and compounded with intricate technical necessities, then it is suggested to allocate more risk to the party which has the most technical experts and technological capabilities. This will ensure that the party can effectively manage and alleviate risks associated with the project's complexity. When it comes to managing the budget constraints-related risks then those risks can be allocated to a party that is responsible for handling the project's finances which may include the client, a financial stakeholder, or that responsible party. Before the project contract, there is a need to set up a specialized risk management team that will include industry experts. This team will be responsible for handling risks associated with external factors such as market volatility, natural disasters, and regulatory changes. A collaborative approach to risk allocation would be helpful to address the concerns arising during the project's lifecycle. This approach will help in fostering a more balanced and successful project outcome. Risk mitigation strategies play a vital role in reducing potential risks. Risk-retention is one of the steps which can be taken by the parties where the parties will keep aside some funds or reserves to cover the potential losses. Such strategies need to be tailored to the specific risks and needs of each organization. Parties can hire insurance professionals and risk management experts who will help them identify the most appropriate strategies and insurance coverage to mitigate and transfer the risks effectively.

There is a need to strengthen the dispute resolution mechanism. For dispute resolution between the involved parties, the establishment of arbitration centers or expert panels with expertise in PPP matters including technical, legal, and financial experts could be done, thereafter ensuring faster and more efficient resolution. The first step of dispute resolution should be encouraging mediation and negotiation where there will be a neutral mediator who will be facilitating negotiations and health parties to find mutually acceptable solutions. Negotiation by the involved stakeholders, mediation, and arbitration will help in the timely and efficient resolution of disputes. The involved private entities can negotiate directly with each other or they can hire an attorney to negotiate with the other side on behalf. This allows the parties to participate directly in the decisions that affect them and reach their agreements. This can result in a win-win solution. Mediation is also one of the steps in dispute resolution which helps each other side better understand the other's point of view. Separate 'caucusing' can help to address emotional and factual issues as well as allow time for receiving legal advice from the attorneys appointed. Another important step in dispute resolution is Arbitration which is typically an out-of-court method for resolving a dispute. The involved parties can appoint an arbitrator who would be responsible for controlling the process, listening to both sides, and making a decision. The parties will have to present evidence through documents, exhibits, and testimony. The result given by the arbitrator can be binding on all parties if they have previously agreed to be bound by the decision. In this case, the right to appeal the arbitrator's decision is very limited. This third step is quicker and less expensive than going to court, depending on applicable arbitration rules. These dispute mechanism steps will surely help in timely dispute resolution. However, the method used to resolve a dispute will depend on the needs of the parties involved and the nature of the dispute.

What Provisions can be taken in India's PPP model from other countries' models?

Japan's Public-Private Partnership model is regarded as a Private Finance Initiative. The selection of private entities in Japan's PPP projects involves a competitive tendering process where the government issues request for proposals inviting private entities to submit their bids. There is a body appointed for Evaluation Criteria which is based on the technical expertise of that private entity, financial capability, and proposed terms, the most suitable private partner gets selected. Here the government plays an important role by identifying the infrastructure needs of the country and thereby inviting private entities. One of the key features which are interesting and should be implemented in India is the Public Interest Considerations. In India, there is a lack of community engagement in giving reliable feedback on PPP projects which will further help in developing quality and increasing accountability. In Japan, in local communities, residents are provided the opportunity to provide feedback, voice concerns, and participate in decision-making processes. The Japanese administration and political agencies have put formal structures for participation at the city council level, in several ways. One, the city council has set up a public committee for discussion and decision on a specific issue. Second, citizens can sit through city council meetings. However, they cannot intervene during the proceedings unless the individual has received an invitation or sought an invitation. Third, the city council conducts annual meetings of "town week" where the council elaborates on the future initiatives for the city and discusses past achievements as well. These meetings are held at the local community center and can be attended by all citizens. The citizens can ask questions and speak their minds.[6] In these meetings, the problems regarding PPP projects, the need, for further improvements, and the impact on the daily lives of people are discussed and further provided to the government of Japan. However, literacy can be an important factor here. People of India should be given education about PPP models so that they would have a clear understanding of the all-over process which will further help in voicing out their opinions. Giving people a general idea of which project is going on, the information about the parties involved, and the monetary fund allocated is a necessary thing. In the case of Risk allocation, the government identifies and transfers specific risks like construction, demand, and operational risks to the private partner through appropriate contractual agreements. This allows them to help in transferring risk to the party which is best equipped to manage them effectively. Even countries like Australia and the United Kingdom have developed comprehensive best-allocation frameworks that allocate rest to the best-equipped party to manage the risks. One of the key features of Australia's PPP model is achieving value for money. The PPP projects are assessed based on their ability to deliver cost-effective outcomes over the project's lifestyle by taking into consideration some factors like operation, construction, maintenance, and Lifestyle costs. This helps in considering both public and private sector perspectives and comparing the PPP model against traditional procurement approaches. Long-term contracts and financing like Canada's PPP model feature can be adopted in India which involves long-term agreements between the Government and private entities for several decades to ensure the private entity's involvement throughout the project life cycle. Even the payments to private partners are often structured as performance-based availability payments or through user fees where the government pays only for the quality and availability of the infrastructure or any service delivered.

Way Forward

The Indian government has a poor record in regulating PPP projects in actual practice as many of the projects have been stuck in issues such as disputes in existing contracts, non-availability of capital, and regulatory hurdles related to the acquisition of land. A moral hazard is created by the firms due to their opportunistic behavior. In many sectors, PPP projects have turned into conduits of cohort capitalism.

[6] *Citizen Participation in Governmental Decision Making in Japan: A Review*, 28 October 2015, https://iuj.repo.nii.ac.jp/?action=repository_action_common_download&item_id=526&item_no=1&attribute_id=22&file_no=1.

There is a lack of transparency and accountability in the PPP projects, the availability of inadequate information on PPP projects in the public domain and it is observed that in the past, private companies did not openly share the data in the name of business secrecy. Also, private companies are more concerned about profits and not public service. PPPs are designed to bring efficiency in the delivery of public services but nowadays, it is becoming more like a commodity rather than a valuable input for public social and economic development. There is an overly regulated institutional and legal framework which leads to issues such as fragmentation, lack of accountability, and complexity. This results in insufficient implementation of PPP projects. As per the reports, it's been seen that there is a lack of stakeholders' engagement with local communities and civil society organizations. For ensuring the social and environmental sustainability of PPP projects, it is necessary for the government as well as the private entity to communicate with local communities, understand their concerns, gather feedback, and work accordingly. Many times, private partners face risk due to a lack of physical infrastructure.

Flexibility should be maintained between the government and the concerned private entities. Some changes in the PPP Framework along with a robust enabling ecosystem that will enable the government to develop its policy objectives and the growth of the nation need to be framed. There should be a reporting mechanism for information sharing. To avoid ambiguity, a definitive understanding of clearly defined project goals, scope, and outcomes must be there among the stakeholders and the concerned ministry in the government. A better Diagnostic and data collection and the project preparation stage is one of the important steps needed for the implementation of PPP projects in India. The government of India launched an Rs.100 lakh-crore Gati Shakti or National Master Plan for Multimodal Connectivity project in October 2021 to coordinate the planning and execution of infrastructure projects in India to reduce logistic costs. Along with the coordinated execution of infrastructural projects, this master plan also covers economic zones including pharmaceutical clusters, textile clusters, defense corridors, industrial corridors, electronic parks, fishing clusters, and agri zones. The Economic Survey for 2020-21 mentioned that India needs ₹4.5-lakh crore investments per year from the private sector to boost NIP sectors. So, the government has to address the issues associated with low credit offtake for successful private investments.[7]Due to a lack of privately demanded investment in the post covid scenario, land acquisition delays, and litigation issues, the rate of project implementation is very low by global standards. PPP requires a framework that will include manageable risk and reasonable written and adequate public service at an affordable cost. The PPP framework along with a robust enabling ecosystem shall enable the Government to accomplish, to a

[7] "PM Gati Shakti – National Infrastructure Master Plan - Explained, pointwise." *ForumIAS Blog*, 16 October 2021, https://blog.forumias.com/pm-gati-shakti-national-infrastructure-master-plan/.

considerable extent, what our Prime Minister has said "The Government has no business to do business" and thereby promote private sector investments and participation towards nation building.[8]

Conclusion

Public-Private partnerships are not exactly privatization but are somewhere between nationalized and privatized. There are obligations on the private sector and government and are bound by the contractual agreement. Indus agreement penalty allocation of risk termination of the contract the rules followed by the parties are mentioned. The various models of PPPs have shown success in recent times but some changes in the mechanism need to be made to strengthen & promote the projects. PPPs have their merits and demerits as well but it is a viable option for nation building and its growth.

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Thank You!